

**REMARKS**

**The Rejections Under 35 USC § 112, second paragraph**

These rejections are moot in view of the amendment to the dependencies of the rejected claims.

**The Rejections Under 35 USC § 102**

US '228's PCT filing date is July 19, 2002, which is prior to the priority date of the present application; however, the PCT publication was published in German. Under these circumstances, the PCT filing is not prior art under section 102(e).

The publications of US '228's PCT application and of its DE priority document, DE '449, even though not in English, make these references prior art publications as of the dates of their publication. These publication dates are after the priority date of the present application. Thus, a verified translation of the priority document can overcome the rejections over these references. Accordingly, a verified translation of the priority document of the present application is attached.

Reconsideration of the rejections is respectfully requested.

**The Obviousness-Type Double Patenting Rejection**

A terminal disclaimer over US 7,122,228 is filed, rendering this rejection moot.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,

/Csaba Henter/

---

Csaba Henter, Reg. No. 50,908  
Anthony J. Zelano, Reg. No. 27,969  
Attorneys for Applicants

MILLEN, WHITE, ZELANO  
& BRANIGAN, P.C.  
Arlington Courthouse Plaza 1  
2200 Clarendon Boulevard, Suite 1400  
Arlington, VA 22201  
Direct Dial: 703-812-5311  
Facsimile: 703-243-6410  
Attorney Docket No.:MERCK-3019

Date: September 10, 2007